

Feeney, Joe

Subject: FW: The Late Payment of Commercial Debts Regulations and NI Health Trusts
Attachments: Ms Julie Thompson DHSSPS.doc

From: Walsh, Tracey [<mailto:Tracey.Walsh@dhsspsni.gov.uk>] **On Behalf Of** Thompson, Julie
Sent: 22 March 2012 15:36
Subject: FW: The Late Payment of Commercial Debts Regulations and NI Health Trusts

Peter/Neelia

For a draft reply by 2 April 2012.

Many thanks.

Julie

From: [REDACTED]
Sent: 22 March 2012 12:22
To: Thompson, Julie; Private Office DHSSPS; hunterj@parliament.uk
Cc: David Simpson; Stephen Moutray; [REDACTED] 'Louise Templeton'
Subject: The Late Payment of Commercial Debts Regulations and NI Health Trusts

Dear Ms Thompson,

Please find attached a reply to your of the 20th March 2012.

Yours sincerely,

[REDACTED]
[REDACTED]



22nd March 2012

Julie Thompson
Senior Finance Director
Resource & Performance Management Group
Department of Health, Social Services and Public Safety.

Dear Ms Thompson,

Thank you for your letter of the 20th March 2012 in response to my letters of the 22nd and 27th February to Minister Poots.

I very much welcome the Department's commitment to the introduction of new financial systems later this year, but I remain concerned that given the time that it takes to embed such systems, suppliers to the Health Service will continue to be clearly disadvantaged in the current economic climate.

Whether it is a payment term of 30 days or end of month following, the Prompt Payment Performance Table for the Trusts continue to show poor compliance with best practice, with a rate of improvement which is akin to watching paint dry. The Trusts are very far from the commitment made over 3 years ago by DFP Minister Dodds in November 2008 for payment within 10 working days.

I note that you have made no comment on the email from a senior procurement officer regarding the imposition of the longer payment term, and the protection of the Health Trusts from suppliers using the Late Payment of Commercial Debts Regulations. Whilst I agree that MPMNI does not exclude such a term I have to repeat that suppliers do not have any choice but to accept it. Given that it exists and suppliers have to abide by it, it is therefore grossly unfair that some Health Trusts and the Business Services Organisation seem prepared to go to any length to prevent suppliers using their statutory rights under the Late Payment legislation.

This dispute began over three years ago in January 2009, which is proof enough that civil servants involved in this dispute have not sought to resolve the issues. There can be no doubt that there was a very serious problem with the payment performance of the Belfast HSC Trust in January 2009.

"For your information- [REDACTED] have included all users so it might help us if we're looking for paperwork from staff, however it is typical of a lot of calls we're getting today regarding seriously overdue accounts".

Jem Caldwell Senior Finance Manager (BHSCT) to Fiona Cotter (Head of Financial Services BHSCT) and Larry O'Neill (Finance Director, BSO), 5th January 2009.

[REDACTED] issued claims under the Late Payment legislation, but was shocked at the tactics used by civil servants to prevent and I would suggest bully the company in to dropping its claims. The Minister has confirmed in a recent written response that claims by suppliers should be settled promptly. This dispute would and should have been resolved in January 2009 had civil servants not tried to frustrate the workings of the Late Payment legislation.

With 34 years experience in the Healthcare Industry I have never come across the type of behaviour which I have endured in the last three years. In the first six months of 2009 the behaviour of officers within the Belfast HSC Trust and the Business Services Organisation included:

- The refusal to pay legitimate claims made under the Late Payment of Commercial Debts Regulations. The refusal to pay the claims and the threat of involving the Legal Services Directorate was clearly used to intimidate this company.
- Unsubstantiated and totally false allegations in correspondence to Mr Stephen Moutray MLA about the administration of [REDACTED] I totally refuted every single allegation and asked for an apology from the Trust. None was given.
- The drawing up of a list of alternative products to every single product (both Contract and Non-Contract) sold by [REDACTED] to the Health Service in Northern Ireland. The implications were very clear.
- The verbal abuse of me by a senior procurement officer in a meeting when I reminded him of the unpaid Late Payment claims to Belfast HSC Trust. When I raised the issue of the unpaid claims he pointed at me and angrily responded with the words "Don't do it, just don't do it".
- The naming by the Chief Legal Adviser of two mediators (one of whom is the same senior procurement officer mentioned above) in the same meeting.

When the Chief Legal Adviser was informed by [REDACTED] that the behaviour of his first named mediator was almost as bad as his mediation skills, he then named [REDACTED] Chairman of [REDACTED] as the mediator in the meeting. Mr [REDACTED] has confirmed to me in writing and to the first mediator by telephone that he was there as an attendee only. Despite a number of requests, no correction or retraction has been made by either the Legal Services Directorate or the Chief Executive of the Business Services Organisation.

In your letter of the 10 February 2012 to my colleague [REDACTED], you asked that [REDACTED] liaise with the Southern Health Trust and its legal advisers to resolve the refusal of the Southern Trust to pay legitimately made claims under the Late Payment of Commercial Debts Regulations. Setting aside what appears to be a systemic failure of governance with respect to this legislation, I have absolutely no confidence given previous behaviour, that the dispute with the Southern Trust will be resolved.

On a number of occasions [REDACTED] has suggested independent mediation to resolve the disputes with the Southern Trust and the Belfast Trust. Our view remains the same, and we will approach the mediation in an open and transparent manner, confident in our position, in order to resolve what has become quite frankly a farce. The alternative will see both disputes continue with likely progress in to a public forum. Our clear preference however is for an independent mediation at the earliest possible opportunity.

Yours sincerely,

[REDACTED]

[REDACTED]

